

**United States Department of the Interior  
Bureau of Land Management**

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**Categorical Exclusion  
DOI-BLM-CO-SO50-2015-0034 CX**

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**April 2015**

**CDOT Highway 50 Culvert Repair Project  
COC-77054**

***Location:** U. S. Highway 50 East of Montrose and East of Cerro Summit*

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**U.S. Department of the Interior  
Bureau of Land Management  
Uncompahgre Field Office  
2465 South Townsend Avenue  
Montrose, CO 81401  
Phone: (970) 240-5300**





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## **CATEGORICAL EXCLUSION**

NUMBER: DOI-BLM-CO-S050-2015-0034 CX

PROJECT NAME: CDOT Highway 50 Culvert Repair Project – COC-77054

PLANNING UNIT: Uncompahgre Basin Resource Management Unit

LEGAL DESCRIPTION: New Mexico Principal Meridian  
T 48 N, R 7 W  
Section 2, SE1/4SW1/4

APPLICANT: Colorado Department of Transportation (CDOT)

DESCRIPTION OF PROPOSED ACTION: CDOT is planning to repair an existing culvert under US Highway 50, Milepost 109, east of Cerro Summit in Montrose County, Colorado. The culvert lies entirely within the highway right-of-way (ROW), however the inlet and outlet areas will be outside the ROW and will require temporary use areas. The temporary use area required on the north side of the highway is approximately 40' x 40' and contains .037 acres (CDOT area TE-5). The area required on the south side of the highway is approximately 40' x 60' and contains .055 acres (CDOT area TE-5A). The two temporary use areas will contain approximately .092 acres (ie, 1/10<sup>th</sup> of an acre). The culvert repair project is expected to be completed within a six month period from Jul 1 to December 31, 2015. However, actual work in the temporary use areas is expected to be 10 days over a 2-4 week period. The project is scheduled to go out for bid in April. No removal of soil or fill is anticipated. At completion, all excess materials will be removed and the area will be returned as close as feasible to its former condition. Access to the temporary use areas will be from the highway ROW.

**Design Features:**

- All areas of disturbance will be seeded with native species and mulched immediately (within 30 days) after construction. If any sagebrush areas are disturbed, the seed mix will include the following:

Common Name	Cultivar	Genus	species	Pounds of pure live seed/acre
Western Wheatgrass	Arriba	<i>Pascopyrum</i>	<i>smithii</i>	3
Bottlebrush squirreltail	(Accession # 9092275)	<i>Elymus</i>	<i>elymoides</i>	3.5
Indian ricegrass	Rimrock	<i>Achnatherum</i>	<i>hymenoides</i>	3
Slender Wheatgrass	San Luis	<i>Elymus</i>	<i>trachycaulus</i>	3
Bluestem penstemon	UP	<i>Penstemon</i>	<i>cyanocaulis</i>	0.2
Northern (Utah) sweetvetch	TIMP	<i>Hedysarum</i>	<i>boreale</i>	1
Lewis flax	Maple Grove	<i>Linum</i>	<i>lewisii</i> spp. <i>lewesii</i>	0.5
Showy Fleabane	UP	<i>Erigeron</i>	<i>spectosus</i>	0.1
Western yarrow	UP	<i>Achillea</i>	<i>millefolium</i>	0.05
			<b>Total</b>	<b>14.35</b>

- BMPs will be used during all phases of construction to reduce impacts from sedimentation and erosion, including the use of silt fence and other appropriate measures.
- No equipment staging or storage of construction materials (including fill material) will occur within 50 feet of wetlands or other water features, or within sagebrush habitats.
- The use of chemicals, such as soil stabilizers, dust inhibitors, and fertilizers within 50 feet of wetlands or other water features will be prohibited.
- Equipment will be refueled in designated contained areas, a minimum of 50 feet from wetlands and other water features.

The proposed ROW will be issued under FLPMA for three years to allow time for reclamation with the right of renewal, and be subject to the stipulations attached as Exhibit A, and be exempt from rent as CDOT is a state governmental entity.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with the following plan (43 CFR 1610.5):

Name of Plan: Uncompahgre Basin Resource Management Unit

Date Approved: July 1989

Decision Language: Management Unit 16, Other Public Lands, Page 143, # 4. MU-16 is managed for general land uses but does not specifically mention lands program ROWs. However the overall plan states the following: "Lands cases generated by other agencies, individuals, and entities would be analyzed and processed on a case-by-case basis in accordance with guidance provided by this plan."

CATEGORICAL EXCLUSION REVIEW: The proposed action qualifies as a categorical exclusion under 516 DM 11.9, Number E. #19, which allows "for issuance of short-term (3 years or less) rights-of-way for such uses as storage sites and construction sites where the proposal

includes rehabilitation to restore the land to its natural or original condition. None of the following exceptions in 516 DM 2, Appendix 2, apply.

Exclusion	YES	NO
1. Have significant adverse effects on public health and safety.	_____	<u>X</u>
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands, floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.	_____	<u>X</u>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.	_____	<u>X</u>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	_____	<u>X</u>
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	_____	<u>X</u>
6. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.	_____	<u>X</u>
7. Have significant impacts on properties listed, or eligible for listing, in the National Register of Historic Places.	_____	<u>X</u>
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.	_____	<u>X</u>
9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.	_____	<u>X</u>
10. Have disproportionately high and adverse effect on low income or minority populations.	_____	<u>X</u>
11. Limit access to and ceremonial use of Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites.	_____	<u>X</u>
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species.	_____	<u>X</u>

INTERDISCIPLINARY REVIEW:

Name	Title	Area of Responsibility
Glade Hadden	Archeologist	Cultural, Native American Religious Concerns
Melissa Siders	Wildlife Biologist	T&E, Wildlife and Migratory Birds

Teresa Pfifer  
Barney Buria

AFM, Lands and Minerals  
EPS, Lands and Minerals

Lands and Realty  
Lands and Realty

REMARKS:

Cultural Resources: Cultural Resource inventory for this project has been completed by CDOT. No historic, National Register or otherwise eligible properties will be affected by this project and no further work is required.

Native American Religious Concerns: There are none known or anticipated for this project.

Threatened and Endangered Species:

A TES Wildlife and Plants Report (11/26/2014) was completed by CDOT with review by UFO biologists Melissa Siders and Ken Holsinger. This report found that there may be effects to some sensitive species. Additionally, there are known occurrences of Threatened Gunnison sage-grouse nearby, the work area is within occupied critical habitat, and the general project vicinity appears to have the appropriate primary constituent elements. Thus, the project **"may affect but not likely to adversely affect the species or its critical habitat."** CDOT conducted consultation with USFWS and received concurrence on this determination (TAILS: 06E24000-2015-I-0249). Modifications were made by CDOT to the original timing of the project, with reinitiation of consultation with USFWS. CDOT received an updated concurrence (TAILS: 06E24000-2015-I-0538) stating that "Given that the habitat conditions have not changed, and that the change in the project timing is not expected to change the effects of the project to the Gunnison sage-grouse or its designated critical habitat, the Service continues to find your determination acceptable and agrees that the project will not likely adversely affect...." Resulting from consultation with USFWS, to minimize project impacts to the species and its habitat:

- "No equipment staging or construction material storage will occur within sagebrush habitats or within 50 feet of wetlands or other water features."
- "Any new fence will be wildlife friendly and new or repaired fences will be marked with durable plastic markers to make them more visible to sage-grouse and help avoid collisions."
- "all areas of disturbance will be seeded with native species and mulched within 30 days after construction"
- "Project construction is expected to require no more than 10 days and will occur within a work window of July 1 through December 2015".

NAME OF PREPARER: Nick Szuch, Realty Specialist

NAME OF ENVIRONMENTAL COORDINATOR: Jedd Sondergard

DATE: 4/30/15

COMPLIANCE WITH NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E. 19. This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

SIGNATURE OF AUTHORIZED OFFICIAL: \_\_\_\_\_

*Barbara Sharrow*

Barbara Sharrow  
Field Manager

DATE SIGNED: 5-1-15

Attachments (2)

1. Exhibit A - Stipulations
2. Maps

**RIGHT-OF-WAY STIPULATIONS**

1. The holder shall contact the authorized officer at least five days prior to the anticipated start of construction and/or any surface disturbing activities. The authorized officer may require and schedule a preconstruction conference with the holder prior to the holder's commencing construction and/or surface disturbing activities on the right-of-way. The holder and/or his representative shall attend this conference. The holder's contractor, or agents involved with construction and/or any surface disturbing activities associated with the right-of-way, shall also attend this conference to review the stipulations of the grant. The BLM authorized representative is Barney Buria, Environmental Protection Specialist, who can be reached at the Uncompahgre Field Office, 2465 South Townsend, Montrose, Colorado 81401 or phone at (970) 240-5333. An alternate contact is Nick Szuch, Realty Specialist, Uncompahgre Field Office, (970) 240-5322.
2. The holder shall construct, operate, and maintain the facilities, improvements, and structures within this right-of-way in conformance with the application and maps. Any relocation, additional construction, or use that is not in accord with the approved conditions shall not be initiated without the prior written approval of the authorized officer. A copy of the complete right-of-way grant, including all plans and stipulations shall be made available at the right-of-way site during construction. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health or the environment.
3. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder. The holder is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts.
4. Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.



5. Use of pesticides/herbicides shall comply with the applicable Federal and state laws. Pesticides/herbicides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides/herbicides, the holder shall obtain from the authorized officer written approval of the applicant's plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. The plan should be submitted no later than March 1 of any calendar year to cover the proposed activities for the next growing season. Emergency use of pesticides/herbicides shall be approved in writing by the authorized officer prior to such use.
6. The holder shall be responsible for weed control within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations) including pesticides/herbicides approved for use on BLM land.
7. The holder shall comply with applicable State standards for public health and safety, environmental protection and siting, construction, operation and maintenance, if these State standards are more stringent than Federal standards for similar projects.
8. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated regarding toxic substances or hazardous materials. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193). Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, section 102b. A copy of any report required or requested by any federal agency of state government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency of State government.
9. The authorized officer may suspend or terminate in whole, or in part, any construction or maintenance activities, when in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
10. All operation and maintenance activities shall be within the authorized limits of the right-of-way granted herein.
11. All brush, grasses, and other woody material cleared from the right-of-way shall be removed from the public land and not scattered on site; unless the debris is mulched and used for reclamation as natural materials to enhance surface stability and re-vegetation efforts.

12. No burning of trash, litter, trees, brush or other vegetative material shall be allowed under this grant.
13. No operations or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support such equipment. If the equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support the construction equipment. Emergency repairs to restore and maintain services are exempt; however, any damages to resources caused by emergency repairs during wet conditions will be repaired as directed by the authorized officer as soon as possible after the occurrence.
14. The holder shall disturb the minimum amount of soils and vegetation necessary for the operation and maintenance of the facility. Topsoil shall be conserved as applicable and reused as cover on disturbed areas to facilitate regrowth of vegetation. The holder shall recontour disturbed areas as necessary by grading to restore the area to approximately the original contour of the ground as directed by the authorized officer.
15. The holder shall contact the AO to determine the appropriate seed mix to be used on all disturbed areas in the right-of-way. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorized officer upon evaluation after the second growing season. BLM places the following requirements on seed mixes which are put on BLM lands:

- 1) Use the following minimum PLS (Pure Live Seed) tolerances  
PLS tested %    Tolerance % points

81-100	-7
61-80	-6
41-60	-5
21-40	-4
0-20	-3

All seed must comply with BLM and Colorado weed seed guidelines. There should be no prohibited species seed, and no more than allowable levels of restricted species seed. In addition, there should be no more than 0.5% total weed seed, less than 2% other seed, and no trash larger than 1/4" in length. Seed shall not be stored in burlap bags.

- 2) The BLM Uncompahgre Field Office places additional local restrictions on seed to minimize cheatgrass spread. If seed tests show any *Bromus tectorum* or *Bromus japonicus*, the BLM should be consulted with for approval. No mix placed on BLM shall contain more than 150 *Bromus tectorum* and/or *Bromus japonicus* seeds per pound.
- 3) BLM requires additional seed tests on seeding projects that are greater than 20 acres and/or require over 200 lbs of seed. For these seeding projects, the holder should have the seed supply company store the purchased seed prior to mixing,

and pull samples to be sent to a certified laboratory, preferably Wyoming State Seed Laboratory at the following address. Seed test results must comply with the criteria listed above before seed is mixed, shipped and applied to the project area:  
Wyoming State Seed Laboratory  
749 Road 9  
Powell, WY 82435

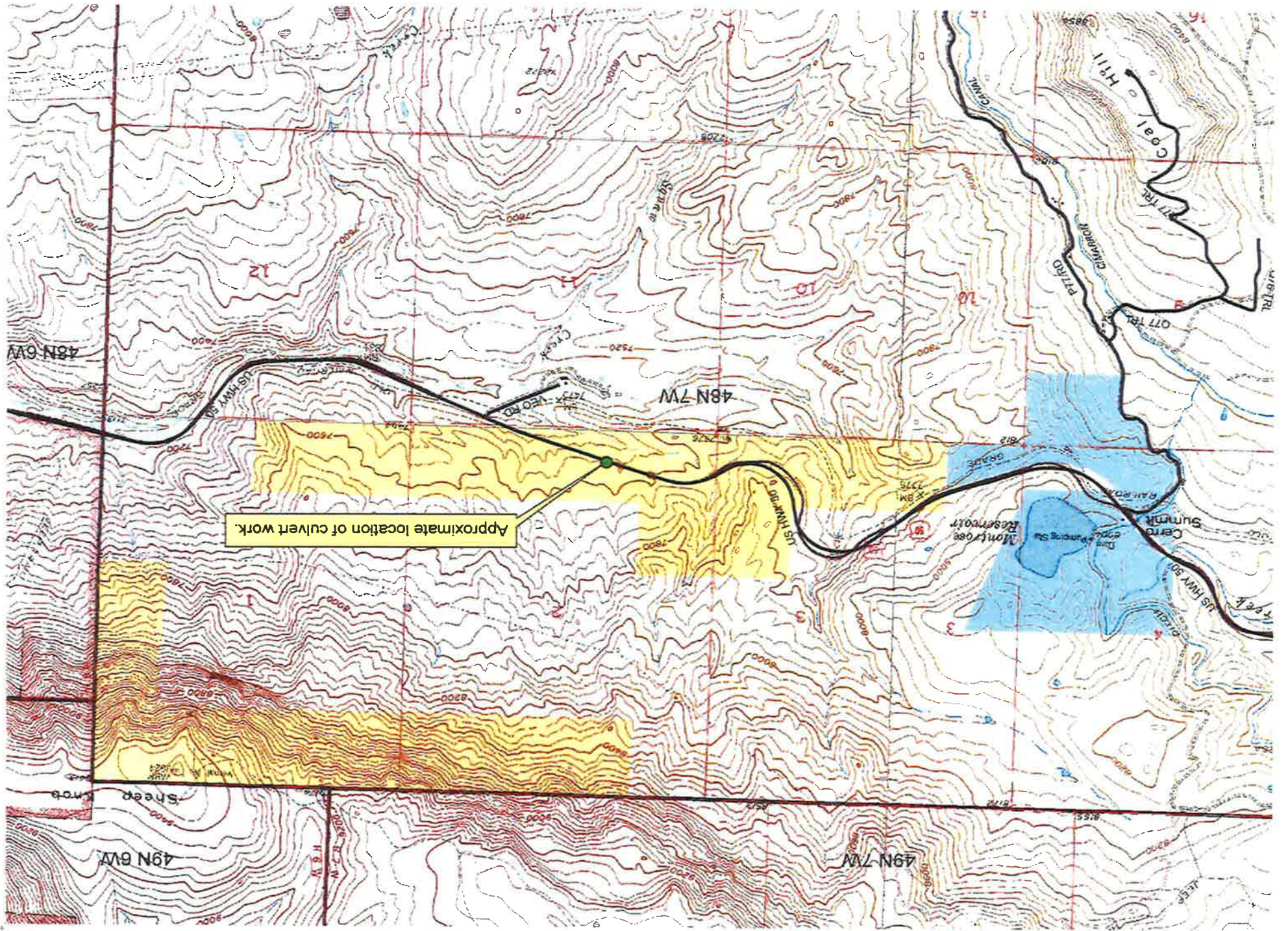
- 4) BLM will need copies of seed tags and test results for all seed applied regardless of project size.
  - 5) Only State Certified weed free mulch shall be used.
16. It is the holder's responsibility to comply with all applicable Federal, State, and local laws and regulations existing or hereafter enacted or promulgated.
  17. For access and maintenance of facilities, the holder shall use existing roads. When existing roads are not available, the holder may use the right-of-way for access. BLM roads should not be maintained without first consulting with the authorized officer.
  18. Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination and rehabilitation plan as necessary. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
  19. Per the BLM Wildlife Biologist, the holder shall conform to the following mitigation measures to ensure the project has no effect on any federally listed or sensitive species:
    - Construction activity and new surface disturbance will be prohibited during the period from December 1st to April 30th for the protection of elk and mule deer within winter and severe winter range. Any exceptions to this requirement must have prior written approval from the authorized officer.
    - To the extent possible, reptiles or amphibians observed in the project area will be avoided and will not be intentionally harmed.
    - Migratory Birds and Raptors: To minimize impacts on migratory bird populations, it is recommended that no surface disturbing activities occur from May 15th through July 15th.
    - Surface disturbing activities or application of herbicide will not occur within 660 feet of known federally protected plant populations, or within 330 feet of known BLM sensitive plant populations. For small scale or less intensive treatments or activities (e.g., vegetation trimming, handtool work, etc., as determined by a BLM biologist), ground disturbing activities will not occur within 100 feet of known federally protected plants, or within 50 feet of known BLM sensitive plants. Appropriate sediment and erosion control, weed control, and similar practices will be applied as necessary to protect plant populations.

- All areas of disturbance will be seeded with native species and mulched immediately (within 30 days) after construction. If any sagebrush areas are disturbed, the seed mix will include the following:

Common Name	Cultivar	Genus	species	Pounds of pure live seed/acre
Western Wheatgrass	Arriba	<i>Pascopyrum</i>	<i>smithii</i>	3
Bottlebrush squirreltail	(Accession # 9092275)	<i>Elymus</i>	<i>elymoides</i>	3.5
Indian ricegrass	Rimrock	<i>Achnatherum</i>	<i>hymenoides</i>	3
Slender Wheatgrass	San Luis	<i>Elymus</i>	<i>trachycaulus</i>	3
Bluestem penstemon	UP	<i>Penstemon</i>	<i>cyanocaulis</i>	0.2
Northern (Utah) sweetvetch	TIMP	<i>Hedysarum</i>	<i>boreale</i>	1
Lewis flax	Maple Grove	<i>Linum</i>	<i>lewisii</i> spp. <i>lewisii</i>	0.5
Showy Fleabane	UP	<i>Erigeron</i>	<i>speciosus</i>	0.1
Western yarrow	UP	<i>Achillea</i>	<i>millefolium</i>	0.05
			<b>Total</b>	<b>14.35</b>

- BMPs will be used during all phases of construction to reduce impacts from sedimentation and erosion, including the use of silt fence and other appropriate measures.
- No equipment staging or storage of construction materials (including fill material) will occur within 50 feet of wetlands or other water features, or within sagebrush habitats.
- The use of chemicals, such as soil stabilizers, dust inhibitors, and fertilizers within 50 feet of wetlands or other water features will be prohibited.
- Equipment will be refueled in designated contained areas, a minimum of 50 feet from wetlands and other water features.
- Any new fence will be wildlife friendly and new or repaired fences will be marked with durable plastic markers to make them more visible to sage-grouse and help avoid collisions.









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Montrose, CO 81401**

**Decision Record**

**(DOI-BLM-CO-S050-2015-0034 CX)**

**PROJECT NAME:** CDOT Highway 50 Culvert Repair Project – COC-77054

**DECISION:** It is my decision to issue a ROW to CDOT for two temporary use areas associated with a culvert repair project on Highway 50 near Milepost 109 east of Cerro Summit.

The ROW will contain a total of approximately .092 acres. The temporary use area required on the north side of the highway is approximately 40' x 40' and contains .037 acres (CDOT area TE-5). The area required on the south side of the highway is approximately 40' x 60' and contains .055 acres (CDOT area TE-5A). The two temporary use areas will contain approximately .092 acres (ie, 1/10<sup>th</sup> of an acre).

The ROW will be issued under FLPMA for three years to allow for reclamation with the right of renewal, and be subject to the stipulations attached as Exhibit A, and is rent exempt as CDOT is a state governmental agency.

**MITIGATION MEASURES:** All stipulations shown in Exhibit A of the Categorical Exclusion (CX) will be followed.

**RATIONALE:**

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E. 19. This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

**COMPLIANCE WITH MAJOR LAWS and CONFORMANCE WITH LAND USE PLAN:**

The decision is in compliance with applicable laws, regulations and policy, including the Endangered Species Act, Migratory Bird Treaty Act and National Historic Preservation Act. It is also in conformance with the Uncompahgre Basin RMP.

**PUBLIC COMMENT:**

The BLM informed the public about this project by listing it on the online Uncompahgre NEPA Register and a copy of the completed Categorical Exclusion will be posted on the NEPA website.

ADMINISTRATIVE REMEDIES:

If you are adversely affected by this decision, within 30 days of receipt of this decision you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR §4.400.

NAME OF PREPARER: Nick Szuch, Realty Specialist

NAME OF ENVIRONMENTAL COORDINATOR: Jedd Sondergard

DATE 4/30/15

SIGNATURE OF AUTHORIZED OFFICIAL

Barbara Sharrow

Barbara Sharrow  
Field Manager

DATE SIGNED 5-1-15

Attachments (2)

1. Exhibit A – Stipulations
2. Maps